IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2296 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

STATE OF GUJARAT

Versus

C.G.ROBART

Appearance:

1. First Appeal No. 2296 of 2003

MS. HANSABEN PUNANI, AGP for Appellants

MR AMAR D MITHANI for Respondent

CORAM : HON'BLE MR.JUSTICE A.M.KAPADIA

Date of decision: 06/05/2005

ORAL JUDGEMENT

By filing this First Appeal u/s 54 of the Land Acquisition Act 1894 ('the Act' for short) read with Section 94 of the Code of Civil Procedure, the appellants

- State of Gujarat and Executive Engineer, Uben Irrigation Project, Junagadh District, have brought under challenge legality, validity and propriety of the judgement and award dated 13.1.2003 rendered in Land Reference Case No.1024 of 1999 by the learned Extra Assistant Judge, Junagadh, by which the market value of the acquired land of the respondent ('the claimant' for short) came to be determined at Rs.50.50 paise per sq.metre and claimant was awarded an additional amount of compensation of Rs.49/= per sq.metre against the amount of compensation determined by the Land Acquisition Officer at Re.1.50 paise per sq.metre, together with statutory benefit u/s [23(IA)] and 23(2) of the Act and also interest u/s 28 of the Act. Accordingly, the appellants were ordered to pay the said amount of compensation to the claimant.

2. This Court has considered the submissions advanced by the learned advocates appearing for the parties, perused the impugned judgement and award as well as the set of evidence supplied by them during the course of their submission.

3. On reappreciation, reanalysis and reevaluation of the evidence adduced and produced before the reference Court by the claimant as well as the Land Acquisition Officer, it is seen that the reference Court has relied upon the judgement and award dated 5.11.1998 in a group of Land Reference Case Nos. 154 to 162 of 1983 decided by the learned Extra Assistant Judge, Junagadh, by which the market value of the acquired land of the claimants came to be determined at Rs.50/= per sq.metre and awarded an additional amount of compensation of Rs.49/= per sq. metre.

4. It is required to be noted that the judgement and award dated 5.11.1998 rendered in group of LAR Case Nos. 154 to 162 of 1983 by the learned Extra Assistant Judge, Junagadh was the subject matter of appeal before this Court in First Appeal Nos.3288 to 3296 of 2000. This Court vide order dated 7.4.2005 dismissed those appeals only on the ground that the claim involved under the appeals is less than Rs.35000/= in view of the consistent practice which is followed by Division Bench of this Court that wherein the claim involved in the appeal is less than Rs.35000/=, the appeal should be dismissed on the ground of petty claim.

5. So far as the amount involved under this appeal is concerned, it is Rs,18,352.52 Paise. Therefore, this appeal is also required to be dismissed only on the

ground that the amount involved under the appeal is less than Rs.35000/=.

6. In aforesaid view of the matter, since the amount awarded under the impugned award is meagre and extremely on lower side, on the ground of smallness of the award, this Court does not deem it expedient to interfere with the same.

7. Seen in the above context, this First Appeal deserves to be dismissed on the ground of smallness of the amount involved in this appeal.

8. For the foregoing reasons, the First Appeal fails and accordingly it is dismissed, with no order as to costs.

9. However, it is made clear that this Court has not approved the determination of the market value of the acquired land at Rs.50.50 Paise per sq. metre. This Court dismissed the appeal on the ground of smallness of the amount involved in this appeal which is less than Rs.20000/= and this judgement must not be cited as a precedent to say that this Court has approved the determination of market value of the acquired land at RS.50 per sq. metre.

(A.M.Kapadia,J)

Jayanti*